

MICHIGAN DEPARTMENT OF HEALTH & HUMAN SERVICES

## ICWA/MIFPA

Child Welfare Supervisor Training

Stacey Tadgerson, Director  
Native American Affairs

*Putting people first, with the goal of helping all Michiganders lead healthier and more productive lives, no matter their stage in life.*

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### Native American Affairs (NAA)

Children's Services Agency (CSA)

- MDHHS Central Office (Statewide responsibility)

Service Delivery

- Advocacy
- ICWA/MIFPA Profiling
- Service Enhancement
- Training/Technical Assistance
- Tribal Consultation

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### Training Applied

By applying this training participants will know how to:

**Comply** with child welfare laws specific to Indian children and families and their/department's responsibilities for implementation/compliance.

**Utilize** MDHHS policy specific to Indian children, ICWA/MIFPA, tribal agreements, and forms for case management of ICWA/MIFPA cases.

**Apply** current research and best-practices pertaining to Indian children in care and providing culturally competent services.

**Employ** ICWA/MIFPA tools to ensure safety, permanency, and well-being for Indian children and families in care.

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ICWA the Gold Standard



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Case Scenarios  
(Medical Review Model)

Scenario 1

Scenario 2

Scenario 3

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## NAA Policy & Resources

### Native American Policy Manual

- IOS
- NAA
- TAM
- NAG

### FORMS:

MDHHS 5598

DHS 120

DHS 121a

DHS 120B

DHS 120C

SCAO ICWA/MIFPA Court Resource Guide

ICWA/MIFPA Field Guide

ICWA/MIFPA Active Efforts Job Aid

ICWA/MIFPA QEW Job Aid

NAA Website:

[www.micnigan.gov/americanindians](http://www.micnigan.gov/americanindians)

### ICWA/MIFPA:

Do you want to  
be compliant  
with the laws?



Court/Care File Number	Machine Name & Agency/Tribal	Judicial Officer	State	County	Date of Hearing
Type of Petition	Type of Hearing	Tribal(s) of Child	Mean of Children	# child released	Age of child
<b>1. Application of ICWA</b> Yes: occurred at this hearing No: did not occur at this hearing <i>Pre-determination pending</i> Yes No					
1a. Was the family asked as court whether or not the child is affiliated with an Indian tribe?					
Who was asked?					
1b. Does ICWA apply in this case?					
1c. Did the judge make a finding orally on the record that ICWA does/does not apply?					
1d. Has the petitioner identified the child's tribe(s)?					
1e. Is the child a member, or eligible for membership and the biological child of a member of a tribe?					
1f. Is the child's tribe federally recognized by the U.S. government?					
2. Jurisdiction					
2a. Did the judge make a finding on the record that the tribe(s) received formal notice of petition filing?					
2b. Is the child a ward of the tribal court?					
2c. Is the child domiciled or living on the reservation?					
2d. Does the state court have jurisdiction?					
3. Opening Questions					
3a. Did the hearing occur? If no, explain why in the note box.					
3b. If this is not the initial hearing, is there indication that this is an ICWA case?					
4. Appearance					
4a. Is the mother (check all that apply): Identified Located Present at the hearing Deceased					
4b. Is the father (check all that apply): Identified Located Present at the hearing Deceased					
4c. Is the Indian custodian (check all that apply): Identified Located Present at the hearing Not applicable					
4d. Is the child (check all that apply): Located Present at the hearing					
4e. Did an attorney appear for the mother? Yes No 4f. Did an attorney appear for the father? Yes No					
4g. Did an attorney appear for the child? Yes No 4h. Did an attorney appear for the Indian custodian? Yes No					
5. Findings on the Record & Placement					
5a. Did the judge make a finding that the tribe(s) received timely notice of this hearing?					
5b. Did the judge make a finding that the mother received timely notice of this hearing?					
5c. Did the judge make a finding that the father received timely notice of this hearing?					
5d. Did the judge make a finding that the Indian custodian received timely notice of this hearing?					
5e. Did the judge order the child into (or to remain in) out of home placement?					
5f. Did the judge make a finding that emergency removal was necessary to prevent imminent physical damage or harm to the child?					
5g. Was qualified expert witness testimony for the child provided at this hearing?					
5h. Did a party dispute the qualifications of the qualified expert witness?					
5i. Did the court make a finding that there was clear and convincing evidence that the child was likely to suffer serious emotional or physical damage if continued in the custody of the parent?					
5j. Did the court find that the agency made active efforts to prevent removal or to return the child home?					
5k. Did a party dispute whether active efforts were provided?					
5l. If active efforts were disputed, who disputed active efforts? (check all that apply): Mother Father Child Tribe Cas/GAL					
5m. Was the child placed within the placement preferences outlined by ICWA, as evidenced by discussion of placement preferences on the record?					

**AMERICAN INDIAN/ALASKA NATIVE (AI/AN) CHILD  
ANCESTRY VERIFICATION**  
Michigan Department of Health and Human Services

The Michigan Department of Health and Human Services (MDHHS) does not discriminate against any individual or group on basis of race, religion, sex, national origin, color, caste, marital status, genetic information, sex, sexual orientation, gender identity or expression, political beliefs or disability.

Please utilize this form to verify Indian ancestry in appropriate cases. If a court case has been initiated, please also utilize the DHS-120 and attach this form. Pursuant to the Indian Child Welfare Act (ICWA) 25 USC 1901 et seq., Michigan Indian Family Preservation Act (MIFPA) MCL 712B. 1 – 41 and Bureau of Indian Affairs (BIA) ICWA Final Rule 25 CFR 23, please be advised that the Michigan Department of Health and Human Services (MDHHS) is seeking ancestry verification.

Child's Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Child's Tribal Affiliation: \_\_\_\_\_

ATTN: Indian Child Welfare Matter/ICWA Indian Agent  
(Insert Name of Agent, Address of Agent)

Specific Tribe, if known: \_\_\_\_\_

If multiple tribes identified, this verification request must be sent to the identified tribe's ICWA Indian Agent cited in Federal Register Designated ICWA Agent Listing.

**Indian Child Ancestry Verification Request**

Please return verification response to child's caseworker regarding child's enrollment or eligibility status for enrollment in the Tribe. Child's biological family history is attached to assist with determination of membership or eligibility for membership status (see page 2).

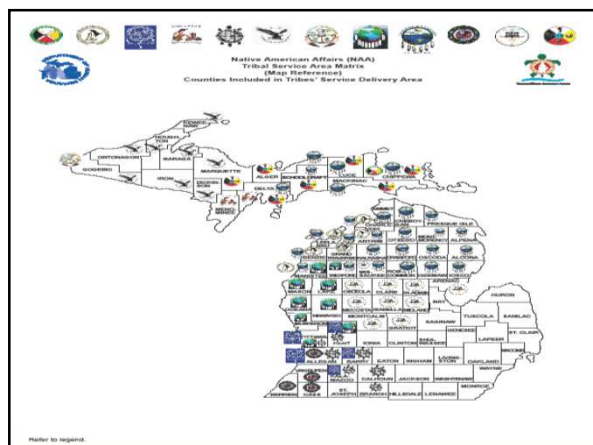
Caseworker's Name/Signature \_\_\_\_\_ Email address \_\_\_\_\_ Telephone Number \_\_\_\_\_

Supervisor's Signature \_\_\_\_\_ Date \_\_\_\_\_

MDHHS County \_\_\_\_\_

MDHHS County Office Mailing Address \_\_\_\_\_ City \_\_\_\_\_ Zip Code \_\_\_\_\_

MDHHS-5588 (Rev. 1-15) Previous edition obsolete. 1



**AMERICAN INDIAN/ALASKA NATIVE (AI/AN)  
COURT HEARING NOTIFICATION**  
Michigan Department of Health and Human Services

The Michigan Department of Health and Human Services (MDHHS) does not discriminate against any individual or group on basis of race, religion, sex, national origin, color, caste, marital status, genetic information, sex, sexual orientation, gender identity or expression, political beliefs or disability.

Please utilize this form if a court case has been initiated, to verify Indian ancestry utilize the MDHHS-5588 and attach to this form. Pursuant to the Indian Child Welfare Act (ICWA) 25 USC 1901 et seq., Michigan Indian Family Preservation Act (MIFPA) MCL 712B. 1 – 41 and Bureau of Indian Affairs (BIA) ICWA Final Rule 25 CFR 23, please be advised that the Michigan Department of Health and Human Services (MDHHS) is providing notice to parents, Indian custodian (if any) and Tribe for the following:

In the matter of \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Child's Tribal Affiliation: \_\_\_\_\_

The Michigan Department of Health and Human Services, as petitioner in the above matter, gives notice to the parties identified below.

**Send the original to the child's tribe, retain a copy for the case file, send a copy to the court. SEND REGISTERED MAIL RETURN RECEIPT REQUESTED TO EACH PARTY FOR EVERY COURT HEARING.**

(Mother or Indian custodian, if known. Otherwise write "unknown". Include AKA aliases.)

(Mother or Indian custodian, if known. Otherwise write "unknown". Include maiden and married names(s) and AKA aliases.)

(Specific Tribe, if known. If multiple tribes identified, this notice must be mailed to the identified tribe's ICWA Indian Agent cited in Federal Register Designated ICWA Agent Listing.)

(Send for every court hearing mailing)

If specific tribe is unknown:  
Tribe(s) located in the county where the offense against the child occurred, in which the offense committed by the juvenile occurred, and in which the minor is presently present.

ATTN: Indian Child Welfare Matter/ICWA Indian Agent  
(Insert Name of Agent, Address of Agent)

BIA-Michigan Regional Office Director  
Branch of Indian Services  
Norman P. Little II  
9550 West American Blvd  
Suite 500  
Bloomington, MN 55437

DHS-120 (Rev. 11-17) Previous edition obsolete. 1

## Federal Register Designated ICWA Indian Agent Listing

MDHHS has cited the Michigan ICWA Indian Agent and linked the federal register listing to our MDHHS 5598 form to assist staff with mailing the documents to the correct tribal agent.

<https://www.federalregister.gov/documents/2016/03/02/2016-04619/indian-child-welfare-act-designated-tribal-agents-for-service-of-notice>

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## MIFPA & Policy: Indian Ancestry & Notice

### Notice:

- MIFPA Section 9 includes In re Morris requirements:
  - Copies of notice (DHS-120) and registered mail return receipt; along with all correspondence from tribe(s) must be sent to the court.
  - The Performance Checklist must be attached as a coversheet to reports being sent to the court.
  - If tribe is undetermined, notice must also be sent to the tribe located in the county of client residence and/or compliant.

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Michigan Statewide Child Welfare  
Automated Information System (MiSACWIS)

## ICWA Tab

- Demographics
- ICWA Mandates
- Scan all tribal documents
- Supervisor/NAA reports available

## ICWA Alerts

- Field Guide

### Outdated forms

- Field Guide & DHS 120

## Main Case flow

- ICWA questions

## NAA/IOS

- Email alerts sent to NAA (statewide) and IOS for each county respectively for all potential ICWA cases entered into system.

Child Placing Network (CPN)

- Matching children and licensed homes

## MiSACWIS & Supervisors

Ensure ICWA tab is completed appropriately

- Verification Dates
- Contact Dates
- Federal recognition

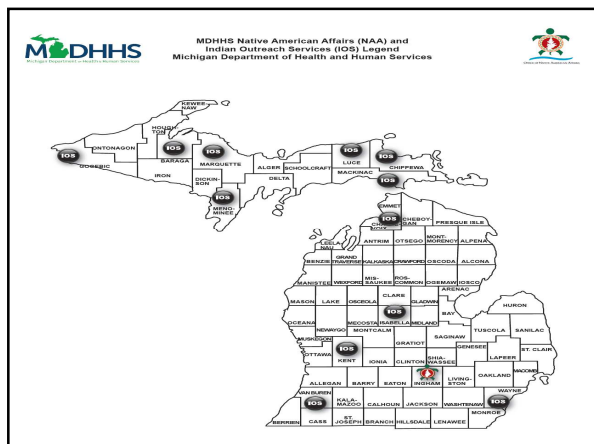
Data input/updates impact data report accuracy.

All ICWA/MIFPA MDHHS Forms must have supervisor signature to ensure compliance.

NAA policy requires 3 day Standard of Promptness (SOP) for Indian ancestry.

## Infoview

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### MiTEAM & ICWA/MIFPA

Please provide ICWA/MIFPA examples of case work for each.

•TEAMING:	•ASSESSMENT:
•ENGAGEMENT:	•MENTORING:

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## MiTEAM &amp; ICWA/MIFPA

Teaming – Inviting tribal representatives to FTM's and hosting at tribe when permissible; etc...

Engagement – Indian Ancestry verification; DHS-120/DHS-121/DHS-120a; Publication 5064 (ICWA Poster); and tribal notice.

Assessment – Levels of assimilation; cultural activities (DHS-120c); Safety Planning (SAFERR); etc...

Mentoring – ICWA Case Conferencing; contact local tribes for training opportunities/collaboration; job-shadowing ICWA cases; etc...

## TAM

[illegible]

## Agreements & Policy Changes: Saginaw Chippewa ICWA Agreement

## Descendent Children

- Confidentiality & Referral Policy (DHS -121a)



## CPS – PA 56 (CPL Section 7)

SB 616 (PA 56 of 2018); effective June 4, 2018.

Allows tribes to request children's protective services information in certain instances.

SRM 131 & PSM 717-7 policy will apply.



ICWA/MIFPA: Placement Preferences

MI TEAM Practice Skills: Engagement & Teaming

Law: 25 U.S.C 1915, MCL 712B. 23, and 25 CFR 23.131 ICWA Final Rule.

MCR: 3.807 Indian Children & 3.905 Indian Children Jurisdiction, Notice, & Transfer (Cross-reference: MCR 3.002, 3.800, & 3.967)

MDHHS Policy: NAA 215 Placement Priorities for Indian Child(ren) (Cross-reference: NAA 400 & 500)

Forms: ICWA Performance Checklist

Tools: American Indian Alaska Native Licensed Foster Home Listings; ICWA/MIFPA Field Guide, Michigan Tribal Service Area Matrix, Federal Register Designated ICWA Indian Agent Listing, MISACWIS ICWA Job Aid (Learning Management System), & SCAO 2017 MIFPA/ICWA Court Resource Guide

## Placement Preferences: Foster Care and Pre-Adoptive

Requires the child be placed in the least restrictive setting that most approximates a family and that is within a reasonable proximity to his home, taking into account any special needs of the child.

Absent good cause to the contrary, the foster care or pre-adoptive placement of an Indian child must be in the following order of preference:

- A member of the Indian child's extended family
- A foster home licensed, approved, or specified by the Indian child's tribe
- An Indian foster home licensed or approved by the department
- An institution for children approved by the Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs

## Placement Preferences: Adoptive

Absent good cause to the contrary, the adoptive placement of an Indian child must be in the following order of preference:

- (a) A member of the Indian child's extended family
- (b) A member of the Indian child's tribe
- (c) An Indian family

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### BCAL Policy Changes: BCAL Tribal Home Verification (BCAL 120a)

In order for a placement to be considered an Indian home according to ICWA/MIFPA, the home must be verified by the tribe in a similar manner as Indian ancestry verification for the child.

Utilize BCAL 120a.

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## Applied Techniques

**Placement Preferences:** The Department of Child Welfare Licensing (DCWL) and Michigan tribes license tribal homes for ICWA/MIFPA when a relative is not available or suitable for a child placement (See NAA website: [www.michigan.gov/americanindians](http://www.michigan.gov/americanindians)).

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## NAA 315 & DHS-120B Continuity of Funding & Services

NAA 315 provides guidance on the review of case management, services, and funding with the respective tribe and private agency foster care when transferring a case to tribal agency.

The DHS-120B Transfer to Tribal Agency/Court form identifies the federal Title IV-E requirements for transferring a case and the materials needed.

Suggestions: It would be beneficial for workers with ICPC cases to review the DHS-120B to ensure continuity of funding and services for ICWA/MIFPA identified youth.

TRANSFER TO TRIBAL AGENCY/COURT Michigan Department of Human Services		Form Name:											
<p>Department of Human Services (DHS) will not discriminate against any individual or group on the basis of race, religion, sex, national origin, color, height, weight, marital status, sex, sexual orientation, gender identity or expression, foster status or disability. If you need help with reading, writing, hearing, etc., call the Accessibility and Disability Act, you are entitled to make your needs known to a DHS office in your state.</p>		<table border="1"> <tr> <td colspan="2">DHS Case Number</td> </tr> <tr> <td>County</td> <td>DHS Case Number</td> </tr> <tr> <td>District</td> <td>Unit</td> </tr> <tr> <td>Section</td> <td>Worker</td> </tr> <tr> <td>Date</td> <td></td> </tr> </table>		DHS Case Number		County	DHS Case Number	District	Unit	Section	Worker	Date	
DHS Case Number													
County	DHS Case Number												
District	Unit												
Section	Worker												
Date													
<p>Pursuant to the Indian Child Welfare Act (ICWA) 25 USC 1901 et seq., Michigan Indian Family Preservation Act (MIFPA) MCL 7126.1 - 61, and Michigan Court Rule 3.600 Indian Children, Jurisdiction, Petition, Transfer, Intervention, Indian child welfare cases may be transferred to tribal court if either parent or the tribe requests the transfer. Fostering Connections to Success and Increasing Adoptions Act, P.L. 110 - 351.</p>		<table border="1"> <tr> <td colspan="2">DHS Case Office</td> </tr> <tr> <td colspan="2">Address</td> </tr> <tr> <td>City</td> <td>State ZIP Code</td> </tr> </table>		DHS Case Office		Address		City	State ZIP Code				
DHS Case Office													
Address													
City	State ZIP Code												
<p>Case Status: <input type="checkbox"/> Children's Protective Services <input type="checkbox"/> Juvenile Justice</p> <p>Eligibility Determination: Title IV-E Eligible <input type="checkbox"/> Foster Care <input type="checkbox"/> Adoption Guardianship Assistance Program</p> <p>Reasonable Efforts to Prevent Removal Judicial Finding <input type="checkbox"/> If determined ineligible attach DHS-176 If determined not reimbursable attach DHS-176</p> <p>Date of Reasonable Efforts to Prevent Removal Judicial Finding</p> <p>Date of Removal</p> <p>Date of Current Placement</p> <p>Date of Last Reasonable Efforts to Finalize the Permanency Plan Judicial Finding</p> <p>All relevant documents must be provided to the tribe and items reviewed by department and tribal staff either in person or teleconference to ensure safety, permanency, and well-being of child and family in the transfer of the Indian child welfare case to tribal agency/court (NAA 315):</p> <table border="0"> <tr> <td> <input type="checkbox"/> Investigation Finding/CPL Category  <input type="checkbox"/> Petition  <input type="checkbox"/> Court Orders  <input type="checkbox"/> Current Placement  <input type="checkbox"/> Permanency Plan  <input type="checkbox"/> Fund Source  <input type="checkbox"/> Potential Barriers to Service  <input type="checkbox"/> Intermediate Complaint (ICPC)  <input type="checkbox"/> Child Support/Title IV-D  <input type="checkbox"/> Education Records  <input type="checkbox"/> Placement History  <input type="checkbox"/> Payment History </td> <td> <input type="checkbox"/> ICWA Mandates Completed  <input type="checkbox"/> Active Efforts  <input type="checkbox"/> Placement Priorities  <input type="checkbox"/> Culturally Competent Services  <input type="checkbox"/> Qualified Expert Witness  <input type="checkbox"/> Tribal Intervention  <input type="checkbox"/> Tribal Modification  <input type="checkbox"/> Medical Assistance  <input type="checkbox"/> Title IV-D  <input type="checkbox"/> Developmental Benefits  <input type="checkbox"/> Health Records  <input type="checkbox"/> Provider License </td> </tr> </table>		<input type="checkbox"/> Investigation Finding/CPL Category <input type="checkbox"/> Petition <input type="checkbox"/> Court Orders <input type="checkbox"/> Current Placement <input type="checkbox"/> Permanency Plan <input type="checkbox"/> Fund Source <input type="checkbox"/> Potential Barriers to Service <input type="checkbox"/> Intermediate Complaint (ICPC) <input type="checkbox"/> Child Support/Title IV-D <input type="checkbox"/> Education Records <input type="checkbox"/> Placement History <input type="checkbox"/> Payment History	<input type="checkbox"/> ICWA Mandates Completed <input type="checkbox"/> Active Efforts <input type="checkbox"/> Placement Priorities <input type="checkbox"/> Culturally Competent Services <input type="checkbox"/> Qualified Expert Witness <input type="checkbox"/> Tribal Intervention <input type="checkbox"/> Tribal Modification <input type="checkbox"/> Medical Assistance <input type="checkbox"/> Title IV-D <input type="checkbox"/> Developmental Benefits <input type="checkbox"/> Health Records <input type="checkbox"/> Provider License										
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<p>The following department and tribal staff attest to the aforementioned in person or teleconference review:</p> <p>DHS Caseworker: _____ Date: _____</p> <p>Email: _____</p> <p>DHS Supervisor: _____ Date: _____</p> <p>Email: _____</p> <p>Tribal Representative: _____ Date: _____</p> <p>Email: _____</p>													
<p>DHS-120B (Rev. 4-14) Previous edition obsolete. MCI Word</p>													

## Adoption & Release of MDHHS Information

A tribe that is a party in an Indian child custody proceeding may request case records to prepare for court. Workers should follow all CPS and NAA case record and confidentiality policy pertaining to release of case records (NAA 225).

An adoptee 18 or over, adoptive or foster care parents, tribe, or Bureau of Indian Affairs (BIA) may request tribal affiliation records to assist the youth with accessing tribal benefits (NAA 405).

Tribe must be invited to the case conference and FTM prior to MCI consent.

Culturally Appropriate Services Policy Changes:  
(25 USC § 1902 & 1915[d]/MCL 712B . 3 [d])

Addressing safety and safety planning

- Best-practices

Performance-based evidence (NICWA/NAYA)

- Developing cultural connections has demonstrated lower risk-taking behaviors, improved self-esteem, and quality of life indicators for American Indian Alaska Native youth.

Passports for American Indian children

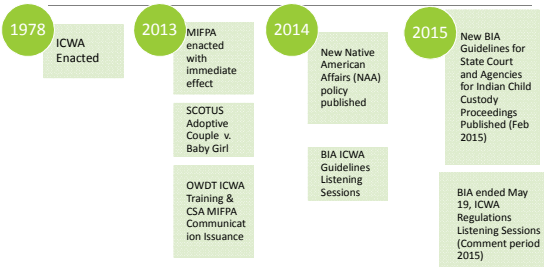
- Addressing the unique needs of American Indian children.

DHS-120c

- NAA 205 – Culturally appropriate service delivery.



## Indian Child Welfare Timeline



## Indian Child Welfare Timeline

2016

- SNPRM AFCARS May 9, 2016.
- NAA Policy Update June 1, 2016.
- BIA ICWA Regulations published June 8, 2016.
- Federal Register ICWA Child Custody Proceedings published June 14, 2016.
- December 12, 2016 25 CFR 23 in effect.
- December 14, 2016 BIA ICWA Guidelines published.

## ICWA Challenges

- Michigan Court of Appeals ICWA cases.
- Goldwater
- TX Attorney General Brief
- Baby Veronica
- Baby Lexi

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## BIA ICWA Final Rule

- ICWA FINAL RULE & BIA ICWA Guidelines – Incorporated the majority of MIFPA statute.

Thank you for your efforts in making Michigan a champion and leader in Indian Child Welfare practice.

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## Native American Affairs

STACEY TADGERSON, MPA – DEPARTMENT OF HUMAN SERVICES,  
NATIVE AMERICAN AFFAIRS

PHONE: 517.335.7782

EMAIL: [TADGERSONS@MICHIGAN.GOV](mailto:TADGERSONS@MICHIGAN.GOV)

WEBSITE: [www.michigan.gov/dhs](http://www.michigan.gov/dhs)

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## Attachment A Historical Trauma

Indian School: A Survivor Story

The Journey to Forgiveness

◦ <http://www.youtube.com/watch?v=vZwF9NnQbWM>

The Canary Effect:

◦ <http://topdocumentaryfilms.com/canary-effect/>

## Attachment B Legal Contacts

SCAO-Child Welfare Services Division

Casey Anbender

Email: [AnbenderC@courts.mi.gov](mailto:AnbenderC@courts.mi.gov)

Michigan State University – Indigenous Law and Policy Center

Kathryn Fort, Staff Attorney

Phone: 517-432-6992

Email: [fort@law.msu.edu](mailto:fort@law.msu.edu)

## SCAO Video Resources

SCAO Child Welfare Services has a video series on the Indian Child Welfare Act (ICWA) / Michigan Indian Family Preservation Act (MIFPA) available on its website. The series contains videos on each of the following topics:

Why We Need ICWA and MIFPA (25:03)

A Tribal Elder's Perspective (14:34)

ICWA/MIFPA Notice Requirements (07:38)

ICWA/MIFPA Placement Preferences (18:38)

Tribal Intervention & Jurisdiction in ICWA/MIFPA Cases (09:08)

Active Efforts (10:42)

ICWA's Serious Damage Standard and Qualified Expert Witness Testimony (05:48)

Good Cause Not to Transfer or Not to Follow Placement Preferences Under ICWA/MIFPA (14:29)

Overview of MDHHS-Native American Affairs Office (17:10)

You may access the videos at the link below:

<http://webcast.youniversity.com/youtools/companies/viewArchives.asp?affiliateid=128>

Thank you for your  
participation!

Your continued excellence in child welfare is our goal

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